



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH
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July 14, 2004

TO: Washington State Board of Health Members

FROM: Carl Osaki, Member

RE: **WORK SESSIONS ON POSSIBLE ACTIONS TO STRENGTHEN SMALL
ONSITE SEPTIC SYSTEM RULES FOR MARINE COUNTIES**

Summary

In March, the Board heard an update on the Onsite Wastewater Rule Development Committee (RDC). The RDC has proposed draft language for a revised onsite wastewater treatment rule, chapter 246-272A WAC. The Board also heard from Ron Shultz, natural resource advisor to Governor Gary Locke. Mr. Shultz conveyed the Governor's concerns that the RDC proposal does not go far enough to protect the marine waters of the state from failing and poorly maintained onsite septic systems (OSS). Since then, the Board has received correspondence expressing a similar concern from State Representative John Upthegrove, Congressman Norm Dicks, and the Pacific Coast Shellfish Growers Association (see attached letters).

There are three main things that the Governor and others are asking of this Board: (1) strengthen operation and maintenance (O&M) planning requirements for local health jurisdictions serving marine counties; (2) address environmental problems caused by nitrogen loading; and (3) require renewable O&M permits for OSS close to marine shorelines. DOH is currently working to strengthen planning requirements. It may not make sense for the Board to try to expand the rules to address nitrogen in marine waters; while marine nitrogen loading can create serious environmental and economic problems, it is not a public health issue. Requiring renewable O&M permits for OSS near marine shorelines is a policy option that raises several complex issues related to the Board's legal authority, the authority of local government, the funding of local health jurisdictions, property rights, and more. Whatever action the Board takes on this request is likely to be controversial.

Craig McLaughlin, the Board's Acting Executive Director, has been actively engaged with representatives of the Governor's Office, DOH, the Department of Ecology, the Department of Community, Trade and Economic Development, and the Puget Sound Action Team, to work on short- and long-term solutions to problems that septic systems are causing in marine waters. I have asked him to organize a work session for today to brief the Board on the many issues involved. He has put together a panel to assist him that comprises Mr. Shultz, Marianne Guichard, director of the DOH Office of Environmental Health and Safety, Janice Adair, DOH Assistant Secretary, Brad Ack, director of PSAT, and Art Starry, director of environmental health for the Thurston County Health Department.

My goals for this agenda item are to: (1) inform Board members of the many legal, public policy and political issues involved; (2) give the Board ample opportunity to question the panelists; (3) encourage the Board to provide direction to Board members and staff working directly on this issue; (4) encourage individual members to become involved in trying to shape a solution; (5) ensure that Board members are prepared when asked to adopt the revised rules (probably in November).

Recommended Board action

I am proposing no formal action at this time but the Board may chose to provide specific guidance to members and staff who continue to work on this issue. This guidance could take the form of a motion or just a sense of the Board.

Background

The Board has authority to: “adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment and disposal facilities.” (RCW 43.20.050 (2)(b))

The Board last adopted revised Onsite Sewage System Rules (WAC 246-272) in 1994. The rules directed DOH to maintain an Onsite Advisory Committee (OAC) to help review program services and make recommendations concerning department policy and regulations. In October 2001, DOH and the OAC recommended the Board revise these rules. The Board filed a CR-101 on January 23, 2001. Consistent with the OAC recommendation, DOH formed an Onsite Wastewater Rule Development Committee to assist it in developing proposed rules. The RDC met 16 times between February 2002 and November 2003.

DOH estimates that 2.4 million Washingtonians (more than a third of the state’s residents) rely on approximately 800,000 OSS. The number of failing OSS in Washington is unknown. Estimates of failure rates in Washington range widely, from one to three percent (Mark Soltman, DOH, personal communication) to 33 percent (Nelson, et al, 1999, in the 2002 *USEPA Onsite Wastewater Treatment System Manual*). Public health impacts of onsite wastewater system failures include:

- Parasites, bacteria, and viruses can cause communicable diseases through direct or indirect contact or ingestion of contaminated water or shellfish
- Excessive nitrogen in drinking water can cause illness in infants and pregnancy complications.

Attachments